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7  
8 **IN THE UNITED STATES BANKRUPTCY COURT**  
9  
10 **FOR THE DISTRICT OF ARIZONA**  
11

12 In re:

13 NATALIE ELAYNE JOHNSON,

14 Debtor.

In Proceedings Under Chapter 13

Case No. 2:16-bk-10288-EPB

15  
16 **TRUSTEE'S MOTION FOR A COURT**  
17 **ORDER ALLOWING TRUSTEE TO**  
18 **LIMIT COMMUNICATION WITH**  
19 **DEBTOR PURSUANT TO 11 U.S.C.**  
20 **§704(a)(7) AND REQUEST FOR**  
21 **HEARING**

22 Russell Brown, Chapter 13 Trustee, by and through counsel undersigned, hereby requests  
23 the Court set a hearing on Trustee's Motion for a Court Order Limiting Communication with Debtor  
24 Pursuant to 11 U.S.C. §704(a)(7). The Trustee further requests a Court Order prohibiting Debtor's  
25 communication with the Trustee except by a pleading filed with the Court.

26 1. On September 7, 2016, Debtor filed for Chapter 13 relief and filed the original Plan.

27 2. On January 5, 2017, Debtor filed her first amended Plan (Doc. #18), and a second  
28 amended Plan on September 26, 2017 (Doc. #26). Pensco Trust Company Custodian FBO Mark  
A. Greenberg IRA, ("Pensco"), filed objections to each of the three Plans (Docs. #11, #26, #38).  
Pensco holds the first deed of trust on Debtor's residence.

3. On December 8, 2017, the Trustee filed his Recommendation on the Second Amended  
Plan. The Recommendation required that the Debtor resolve Pensco's Objection to Plan  
Confirmation and that the Debtor cure the Plan payment delinquency (Doc. #49).

1           4. On January 26, 2018, the Trustee set a status hearing for February 27, 2018 (Doc. # 50).

2           5. On January 31, 2018, Kenneth Neeley filed a Motion to Withdraw as Attorney (Doc. #51).  
3 Mr. Neeley cited a breakdown in the attorney-client relationship as his reason for withdrawing as  
4 counsel.  
5

6           6. On February 12, 2018, a Notice of Hearing on the Motion to Withdraw as Attorney was  
7 filed (Doc. 53). The hearing was scheduled for the same date as the Status Hearing, February 27,  
8 2018.

9           7. On February 20, 2018, Debtor filed a pro-se response requesting a 30-day continuance of  
10 the hearings (Doc. #55). Based on the Debtor's request, the Court continued the hearings to April  
11 3, 2018 (Doc. #57). Based on another request by the Debtor, the Court continued the hearings to  
12 April 6, 2018 (Doc. 51). The Trustee notes that the Court held two Friday hearings, which are  
13 atypical for the Court's calendar, in order to accommodate the Debtor's schedule.  
14

15           8. On April 6, 2018, the Court heard the Debtor's concerns regarding her case and Mr.  
16 Neeley's Motion to Withdraw. The Court granted Mr. Neeley's Motion to Withdraw as Counsel.  
17 The Court further noted its concerns regarding the Debtor's financial situation and questioned  
18 whether or not the case should be converted to Chapter 7. The Court urged the Debtor to visit the  
19 Self-Help Center. Pensco's attorney had objected to the Plan on the basis that the Plan failed to pay  
20 Pensco's attorney fees in addition to concerns regarding feasibility. A proposed Stipulated Order  
21 Confirming Plan resolving Pensco's objections was discussed. The Court continued the hearing to  
22 May 4, 2018. The Court again urged the Debtor to seek legal advice prior to the next hearing (Doc.  
23 #71).  
24

25           9. On April 18, 2018, the Court entered an order approving Mr. Neeley's attorney fees in the  
26 full amount of \$4,500.00 (Doc. 18). Debtor's Objection to Order Granting Attorney Fees (Doc. 78),  
27 was scheduled for a hearing on the same date as the continued status hearing.  
28

1           10. At the May 4, 2018 Hearing, the Court took the matter of the Debtor's Objection to  
2 Attorney Fees, under advisement and later issued an order denying the Debtor's Objection to  
3 Counsel's Attorney fees (Doc. #86).

4           11. Further, at the May 4, 2018 Hearing, Trustee's Counsel advised the Court that an  
5 agreement had been reached between Pensco and the Debtor. The minute entry shows that Trustee's  
6 counsel had circulated a proposed SOC to Pensco's attorney and Ms. Johnson. Further, the parties  
7 were in agreement that if Debtor remained current on plan payments and post-petition mortgage  
8 payments through July 2018, Pensco would sign off on the SOC. During this time period (May 4,  
9 2018-July 2018), Pensco would not accrue any additional attorney fees. The Court continued the  
10 matter to August 10, 2018 (Doc. #86).

11           12. On August 22, 2018, the Court granted the Stipulated Order Confirming Plan (Doc. #91).  
12 The Debtor endorsed the Stipulated Order Confirming Plan ("the SOC). Paragraph C(2)(a) of the  
13 SOC clearly itemizes the amount owed to Pensco and states that the amount includes attorney fees.  
14 The Trustee notes that the Debtor did not file any formal objection to the proof of claim and  
15 endorsed the order accepting the amount of mortgage arrears and attorney fees.

16           13. Despite both Trustee's counsel and the Court urging the Debtor to seek legal advice, the  
17 Debtor chose to accept the terms of the SOC without the assistance of an attorney. Further, despite  
18 the Court's concerns regarding Debtor's income level and plan feasibility as noted in the minute  
19 entry at Docket #71, the case was finally confirmed nearly two years after the filing date, and only  
20 after several hearings, and the cooperation of all the parties.

21           14. Now, more than 230 days post confirmation, the Debtor has sent multiple emails to the  
22 Trustee's Office voicing her concerns about the amount owed to Pensco and objecting to Pensco's  
23 attorney fees. The Trustee's office has supplied the Debtor with documentation verifying the  
24 balance owed on the mortgage arrears and the attorney fees to Pensco. However, the Debtor still  
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1 raised concerns that these amounts were somehow incorrect. Trustee's counsel emailed the Debtor  
2 to suggest a status hearing where Debtor could raise her concerns on the record. The Debtor stated  
3 that she does not want to "meet with" Trustee's counsel and prefers to file a formal complaint  
4 against the Trustee's Office with the United States Trustee. Nonetheless, the Trustee believes that  
5 the best place to resolve the Debtor's concerns regarding the SOC is on the record at a formal  
6 hearing.  
7

8 15. Between May 1, 2018, through April 11, 2019, a review of email communications  
9 between Debtor and Trustee's counsel shows well over 150 emails between Trustee's Counsel and  
10 the Debtor. This email count does not include emails that the Debtor has sent to other staff members  
11 at the Trustee's Office or emails from Trustee's counsel to Pensco and other interested parties in  
12 order to facilitate confirmation of the Plan. Many of the Debtor's emails start off with an innocent  
13 question regarding plan payments or the Plan payoff amount, but quickly devolve into threats and  
14 accusations. The Debtor has accused her former counsel, Pensco, and the Trustee of unethical  
15 behavior. The Trustee believes that the Debtor's accusations are baseless.  
16

17 16. The Trustee's staff has wasted numerous hours attempting to explain the terms of the  
18 Plan and assist the Debtor, all to no avail. Debtor has failed to seek relief in the form of an objection  
19 to Pensco's proof of claim or a revocation of the SOC pursuant to 11 U.S.C. §1330(a). Instead, she  
20 continues to bombard the Trustee's office with emotional emails that are without legal merit.  
21

22 17. Eleven U.S.C. §704(a) states, "The trustee shall-(7 ) Unless the court orders otherwise,  
23 furnish such information concerning the estate and the estate's administration as is requested by a  
24 party in interest." The Trustee notes that the Debtor's case is confirmed and all questions regarding  
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1 plan payment status and disbursement amounts may be obtained using the National Data Center  
2 website at <https://www.ndc.org><sup>1</sup>.

3  
4 18. Given the amount of unnecessary resources that the Trustee must allocate to respond to  
5 Debtor's lengthy emails and the Debtors' baseless accusations that the Trustee has acted unethically,  
6 the Trustee requests an order of the Court barring the Debtor from emailing or calling the Trustee's  
7 office in the future. All future communications which cannot be resolved by the Debtor accessing  
8 her case information on the National Data Center website, should be filed by the Debtor in the form  
9 of a court pleading.

10  
11 19. The Trustee has been a standing trustee for over 22 years. This is the first case where  
12 the Trustee has sought a court order limiting a debtor's communication with the Trustee's office.  
13 The Trustee is not aware of any published decisions determining when it is appropriate for a court  
14 to grant a trustee's motion to limit communications between a pro-se debtor and the trustee.

15  
16 20. Given the Debtor's track record of falsely accusing former counsel, Trustee's counsel,  
17 the Trustee, Pensco's counsel, and even the Court, of unethical behavior, the Trustee believes that  
18 transferring this case to another trustee would not appease the Debtor. The Trustee believes that the  
19 Debtor would quickly levy the same complaints against the newly assigned trustee.

20  
21 Wherefore, based on the foregoing, the Trustee requests the Court set a hearing on Trustee's  
22 Motion for a Court Order Allowing the Trustee to Limit Communications with the Debtor pursuant  
23 to 11 U.S.C. §704(a)(7) and for a Court Order prohibiting Debtor's communication with the Trustee  
24 except by a pleading filed with the Court.

25 By: \_\_\_\_\_

26 Rachel E. Flinn, Esq. 027000  
27 Staff Attorney for Chapter 13 Trustee

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Russell Brown, Chapter 13  
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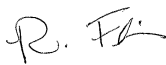
28  
\_\_\_\_\_ <sup>1</sup> The National Data Center is a nonprofit organization that makes Chapter 13 case data  
available to Chapter 13 debtors without charge.

1 Copy of the foregoing was mailed  
2 or emailed to the following parties on the date  
3 of the electronic signature affixed hereto:

4 NATALIE ELAYNE JOHNSON  
5 625 S. WESTWOOD CIRCLE, UNIT 172  
6 MESA, AZ 85210  
7 (Pro-se Debtor)

8 DAVID L. KNAPPER  
9 LAW OFFICES OF DAVID L. KNAPPER  
10 dlk@knapperlaw.com  
11 (Creditor for Pensco)

12 Elizabeth C. Amorosi, Esq.  
13 OFFICE OF THE UNITED STATES TRUSTEE  
14 Elizabeth.C.Amorosi@usdoj.gov

15 



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